



Paper No. 6

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Ward & Olivo  
708 Third Avenue  
New York, NY 10017

In re Application of  
Palardy  
Application No. 09/328,565  
Filed: June 9, 1999  
Attorney Docket No. 935-017

DECISION ON PETITION

This is a decision on the Petition to Revive an Abandoned Application, filed September 6, 2000, which is treated as a petition to withdraw the holding of abandonment, under 37 CFR 1.181, for the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application ("Notice") mailed July 6, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 7, 1999. A Notice of Abandonment was mailed on August 18, 2000.

Petitioner asserts that a proper response was timely filed. In support of the Petition, Petitioner submits a Declaration Attesting to Mailing of Patent Office Correspondence Under 37 CFR 1.8(a), stating that Petitioner's office records indicate that on Monday, September 6, 1999, the following were mailed via first class mail in an envelope addressed to "Commissioner of Patents and Trademarks, Washington, D.C. 20231":

1. Transmittal (with Certificate of Mailing and authorization to withdraw basic filing fee and surcharge);
2. Copy of Notice to File Missing Parts; and
3. Declaration and Power of Attorney Form.

37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not

received in the Patent and Trademark Office, and the application is held abandoned or the proceeding dismissed, terminated or decided with prejudice, the correspondence will be considered timely if the party who forwarder such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of that correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of sending unit's report confirming transmission may be used to support this statement.

This Petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

A handwritten signature in black ink, appearing to read "Beverly M. Flanagan", followed by a small, stylized mark that looks like "for".

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy